

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ABRAHAM LEAVITT,

Plaintiff,

v.

CENTRAL CREDIT, LLC,

Defendant.

NO. 2:23-cv-01817-RAJ

DEFENDANT CENTRAL CREDIT'S  
REPLY IN SUPPORT OF MOTION TO  
DISMISS PLAINTIFF'S FIRST  
AMENDED COMPLAINT

NOTED ON MOTION CALENDAR:  
JULY 8, 2024

**I. INTRODUCTION**

Plaintiff first raised the prospect of filing a further amended complaint in this action on March 25, 2024. *See* Dkt. #21-3. The parties met and conferred about the proposed amendment, and Defendant Central Credit provided Plaintiff with evidence and legal authority as to why the proposed amended complaint would be futile. *See id.* Nevertheless, Plaintiff refused to meet and confer further regarding the proposed amendment before Central Credit's deadline to respond to the FAC, thus requiring Central Credit to prepare and file its motion to dismiss. Dkt. #21-5.

Now, having forced Central Credit to brief a motion to dismiss, Plaintiff belatedly claims in his opposition that he will in fact seek to file a further amended complaint, and that when filed it will moot Central Credit's motion to dismiss. *See* Dkt. #25 at 5-7. The initial complaint

1 was already amended once by stipulation of the parties to replace an improperly named  
2 defendant with Central Credit, LLC. *See* Dkt. #15. Any leave to amend at this point may only  
3 be granted by the Court upon a showing of good cause. *See* Fed. R. Civ. P. 15(a)(2). As of the  
4 date of this filing, Plaintiff still has not sought leave to amend. Although Central Credit has not  
5 been able to review the purported new proposed amended complaint, based on the prior meet  
6 and confer discussions with counsel Central Credit submits that the amendments Plaintiff has  
7 indicated he will make to the complaint will be unavailing and futile.

8 In the meantime, the operative FAC is plainly deficient for the reasons set forth in  
9 Central Credit's motion to dismiss, most significantly because of Plaintiff's failure to allege  
10 sufficient facts to state any of his claims. *See Iqbal*, 556 U.S. at 678 (holding that mere "labels  
11 and conclusions," "naked assertions devoid of further factual enhancement," and "formulaic  
12 recitation[s] of the elements of a cause of action" are insufficient to state a claim) (cleaned up).  
13 Each of Plaintiff's arguments opposing the motion lack merit. For example, Plaintiff attempts  
14 to distract from the FAC's deficiencies by claiming Central Credit did not sufficiently meet and  
15 confer before moving to dismiss. *See* Dkt. #25 at 8-10. But the parties met and conferred  
16 *extensively*, and the only reason they did not meet and confer further is because Plaintiff's  
17 counsel refused to respond to Central Credit's further meet and confer attempts. *See, e.g.*, Dkt.  
18 #21-5. Moreover, to the extent Plaintiff claims that purported facts and evidence outside the  
19 pleadings somehow save Plaintiff's claims (*see* Dkt. #25 at 12-14), they do not. The Court's  
20 review on a motion to dismiss is generally limited to the face of the FAC, and it is not proper  
21 for the Court to assume that "the [Plaintiff] can prove facts which [he or she] has not alleged."  
22 *Ass'n. Gen. Con. of Cal., Inc. v. Cal. State Council of Carpenters*, 459 U.S. 519, 526 (1983).  
23 This is true even for a *pro se* Plaintiff. *See, e.g., Copeland v. City of Camas*, No. C19-5935-  
24 BHS-MLP, 2019 WL 7811332, at \*1 (W.D. Wash. Dec. 6, 2019), report and recommendation  
25 adopted, No. C19-5935 BHS, 2020 WL 488644 (W.D. Wash. Jan. 30, 2020) ("Although  
26

1 Plaintiff's pro se pleadings are held to a less stringent standard than formal pleadings drafted by  
 2 lawyers, he still must meet the requirements of the rules."'). Nor can Plaintiff save the FAC by  
 3 attempting to rewrite Central Credit's Rule 12(b)(6) motion as a motion for more definite  
 4 statement under Rule 12(e).

5 In short, because Plaintiff fails to support his claims against Central Credit with  
 6 sufficient factual allegations, his claims must be dismissed. Any amendment would be futile for  
 7 the reasons set forth in this reply, and in Central Credit's motion to dismiss. Moreover, because  
 8 the complaint has already been amended once, and Plaintiff unduly delayed for months in  
 9 seeking leave to file a further amended complaint—which Plaintiff still has not done as of the  
 10 date of this filing—at great additional cost to Central Credit, dismissal should come with  
 11 prejudice.

12 **A. Central Credit Anticipates Opposing Amendment**

13 Plaintiff claims that he intends to move for leave to file a further amended complaint.<sup>1</sup>  
 14 Dkt. #25 at 5-7. Plaintiff's counsel first indicated Plaintiff's intent to file a further amended  
 15 complaint during a meet and confer call on March 25, 2024. *See* Dkt. #21-3. Central Credit's  
 16 counsel argued on that call and in subsequent correspondence why any such amended complaint,  
 17 as described by Plaintiff's counsel, would be meritless. *See id.* Following this, Central Credit  
 18 tried for months to get Plaintiff to respond to Central Credit's contentions, and to confirm  
 19 whether Plaintiff would in fact be seeking to further amend the complaint so Central Credit  
 20 would not unnecessarily incur the cost of having to move to dismiss the operative complaint.  
 21 *See, e.g.,* Dkt. #21-5. Unfortunately, Plaintiff's counsel refused to meet and confer further on  
 22

23  
 24 <sup>1</sup> As set forth in Defendant's motion, any further amended complaint would be a "second  
 25 amended complaint," as the Court already granted the parties' stipulation to remove Everi  
 26 Holdings, Inc. as a defendant and instead substitute in Defendant Central Credit LLC. *See* Dkt.  
 #15. While it now seems Plaintiff disputes whether this constituted an "amendment," Defendant  
 will reserve further argument on this issue in opposing any future motion for leave to amend.

1 this issue, or to give any indication as to whether Plaintiff would seek leave to amend, thus  
 2 necessitating this motion to dismiss. *See id.*

3 It has now been over three months since Plaintiff first raised the prospect of a further  
 4 amended complaint. As of the time of this reply brief, Plaintiff still has not filed any request for  
 5 leave to amend. After ignoring Central Credit's meet and confer efforts on this issue for months,  
 6 the parties recently met and conferred by telephone shortly before Plaintiff filed the instant  
 7 opposition brief. During that conversation, among other things, Central Credit's counsel  
 8 requested to review a draft of the proposed amendment for further consideration, but Plaintiff's  
 9 counsel declined as the amendment had not yet been drafted. Should Plaintiff indeed seek leave  
 10 to amend in the future, Central Credit anticipates opposing for the reasons set forth in its motion  
 11 to dismiss, and for the reasons discussed with counsel during the parties' months-long meet and  
 12 confer efforts, but reserves the right to further challenge Plaintiff's proposed amendment on any  
 13 other applicable grounds after reviewing the proposed amendment. In the meantime, Central  
 14 Credit's motion to dismiss is now fully briefed and ripe for decision by the Court.

15 **B. The Parties Met and Conferred Extensively Prior to the Motion**

16 Attempting to distract from the merits of Central Credit's motion to dismiss, Plaintiff  
 17 argues at length that the parties' meet and confer efforts were somehow lacking. *See* Dkt. #25  
 18 at 8-9. They were not. Counsel for the parties met and conferred extensively regarding the merits  
 19 and Central Credit's anticipated motion to dismiss, including two lengthy phone calls and  
 20 numerous emails. *See* Dkt. #21 at ¶¶ 2-7, #21-1 - #21-5. As discussed in those phone calls, and  
 21 memorialized in correspondence, Central Credit's position has always been that not only does  
 22 the FAC not state any claim against Central Credit, but the FAC also completely fails on the  
 23 merits as no information reported by Central Credit was inaccurate based on its reasonable  
 24 investigation. *See* Dkt. #21-2, #21-3. Although Central Credit was actively attempting to meet  
 25 and confer with Plaintiff further prior to moving to dismiss, Plaintiff's counsel ignored Central  
 26

1 Credit's attempts and instead refused to respond, thus requiring Central Credit to file the instant  
 2 motion. *See* Dkt. #21-5 ("You [Plaintiff's counsel] have not provided any substantive response  
 3 to the meet and confer email I [Central Credit's counsel] sent on March 28, or to any of my  
 4 subsequent attempts to meet and confer to ascertain whether Plaintiff will be dismissing the  
 5 operative complaint for the reasons we have discussed or if Plaintiff will be proceeding with an  
 6 amended complaint."). To the extent Plaintiff now claims in unsupported argument those meet  
 7 and confer efforts were somehow deficient, the evidence plainly demonstrates otherwise.

8 In short, Central Credit's meet and confer efforts complied with both the spirit and the  
 9 letter of the Court's Chambers Procedures. If there was any deficiency in the meet and confer  
 10 process, it is only because Plaintiff's counsel refused to respond to Central Credit's counsel's  
 11 emails or to meet and confer further prior to the deadline for Central Credit to move for  
 12 dismissal. Plaintiff cannot refuse to participate in the meet and confer process and then use that  
 13 as a basis to oppose Central Credit's motion to dismiss—especially where, as here, the FAC is  
 14 plainly deficient on its face.

15 **C. Central Credit Applied the Correct Rule 12 Standard**

16 Plaintiff appears to suggest Central Credit has somehow applied the incorrect pleading  
 17 standard, and that Central Credit's Rule 12(b)(6) motion should really be construed as a Rule  
 18 12(e) motion for a more definite statement. Dkt. #25 at 10-11. This is incorrect. Central Credit  
 19 filed a Rule 12(b)(6) motion to dismiss and both cited and applied the correct standard in its  
 20 motion. As set forth in Central Credit's motion, a court construes the facts alleged "in the light  
 21 most favorable to the" non-moving party *only* if those facts are "well-pleaded." *Irving Firemen's*  
 22 *Relief & Ret. Fund v. Uber Techs.*, 998 F.3d 397, 403 (9th Cir. 2021). Mere "labels and  
 23 conclusions," "naked assertions devoid of further factual enhancement," and "formulaic  
 24 recitation[s] of the elements of a cause of action" are insufficient. *Ashcroft v. Iqbal*, 556 U.S.  
 25 662, 678 (2009) (cleaned up). Moreover, it is not proper for the Court to assume "the [Plaintiff]  
 26

1 can prove facts which [he or she] has not alleged.” *Ass’n. Gen. Con. of Cal., Inc. v. Cal. State*  
 2 *Council of Carpenters*, 459 U.S. 519, 526 (1983).

3 As set forth in Central Credit’s motion, the FAC is nearly devoid of any well-pleaded  
 4 factual content, and in any event fails to include sufficient factual allegations to state the  
 5 elements of Plaintiff’s purported claims. Accordingly, dismissal is appropriate.

6 **D. Central Credit’s Motion is Accurate**

7 In his opposition, Plaintiff discusses at length a series of purported “falsehoods” that  
 8 have nothing to do with the actual allegations pleaded in the FAC. *See* Dkt. #25 at 12-14. All of  
 9 Plaintiff’s arguments relate to factual claims outside the four corners of the FAC, and thus are  
 10 inappropriate for consideration on a motion to dismiss and should be rejected for that reason  
 11 alone. *See Ass’n. Gen. Con. of Cal., Inc.*, 459 U.S. at 526. Regardless, Central Credit addresses  
 12 each of Plaintiff’s contentions in turn.

13 ***First***, Central Credit had reason to believe Plaintiff was an attorney, including based on  
 14 the volume of other litigation previously filed by Plaintiff in various jurisdictions. Central Credit  
 15 discussed this during the parties’ meet and confers and memorialized its understanding in  
 16 correspondence to Plaintiff’s counsel. *See, e.g.*, Dkt. #21-3 (“As you know, Mr. Leavitt is an  
 17 attorney and has filed numerous other FCRA cases and disputes and is therefore very familiar  
 18 with the FCRA and his rights thereunder.”). Plaintiff’s counsel never disputed this  
 19 understanding until its opposition. Nevertheless, whether Plaintiff is an attorney is irrelevant to  
 20 Central Credit’s motion to dismiss as all plaintiffs must nonetheless fully comply with the  
 21 Federal Rules of Civil Procedure and the local rules of this Court, even if the complaint was  
 22 filed *pro se*. *See, e.g., Copeland v. City of Camas*, No. C19-5935-BHS-MLP, 2019 WL 7811332,  
 23 at \*1 (W.D. Wash. Dec. 6, 2019), report and recommendation adopted, No. C19-5935 BHS,  
 24 2020 WL 488644 (W.D. Wash. Jan. 30, 2020) (“Although Plaintiff’s *pro se* pleadings are held  
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1 to a less stringent standard than formal pleadings drafted by lawyers, he still must meet the  
2 requirements of the rules.”).

3 **Second**, the FAC affirmatively alleges that Central Credit is a credit furnisher, not a  
4 credit reporting agency, and does not allege any facts that could otherwise indicate Central  
5 Credit was instead acting as a credit reporting agency here.<sup>2</sup> See Dkt. #20 at 8-10. Even if he  
6 had, the FAC would still fail for the reasons identified in Central Credit’s motion. See *Id.* at 9-  
7 11.

8 **Third**, Central Credit’s motion and accompanying declaration accurately set forth the  
9 representations by Plaintiff’s counsel during meet and confer efforts that “the FAC did not state  
10 an actionable claim against Central Credit *as currently pleaded*.” See Dkt. #21 (emphasis  
11 added). This is supported by the fact that during the meet and confer process Plaintiff’s counsel  
12 quickly shifted from discussions about the operative complaint to a proposed further amended  
13 complaint (see Dkt. #21-3). It is also memorialized in multiple of Central Credit’s counsel’s  
14 emails (see Dkt. #21-3, 21-5), which Plaintiff never disputed until his opposition.<sup>3</sup> The only real  
15 question is why Plaintiff’s counsel refused to meet and confer with Central Credit on the issue  
16 of an amendment and has instead waited so long to seek leave to amend if that is indeed  
17 Plaintiff’s preferred course of action.

18 **E. The FAC Fails To State A Claim under 15 U.S.C. § 1681s-2(b)**

19 Plaintiff tacitly concedes that the FAC fails to state a claim under 15 U.S.C. § 1681s-  
20 2(b) by not opposing Central Credit’s arguments and instead merely responding that “Plaintiff  
21 does not intend to continue with a furnisher claims, so the furnisher claims can be dismissed . .  
22 . .” Dkt. #25 at 15. Accordingly, the Court should dismiss this claim with prejudice.

23 <sup>2</sup> Plaintiff’s citation in the Opposition to SEC filings, for which Plaintiff has not moved for  
24 judicial notice, are irrelevant as to whether Defendant is properly alleged to have been acting as  
25 a credit reporting agency in connection with Plaintiff’s claims. See Dkt. #25 at 13-14.

26 <sup>3</sup> At one point Plaintiff’s counsel indicated that he disputed one of Central Credit’s meet and  
confer emails, but without specifying what was supposedly incorrect. See Dkt. #21-4.



**F. The FAC Fails To State A Claim under 15 U.S.C. § 1681e(b) or § 1681i**

Plaintiff's claims against Central Credit for purported violations of the FCRA as a consumer reporting agency under 15 U.S.C. Section 1681e(b) ("Accuracy of Report") and Section 1681i ("Procedure in Case of a Disputed Accuracy") fail for the reasons set forth in Central Credit's motion. *See* Dkt. #20 at 8-11. Plaintiff's four contentions as to why "[t]he motions [*sic*] challenges to the remaining federal claims are misplaced" (Dkt. #25 at 15) fail to address all of Central Credit's arguments as to why Plaintiff has failed to properly state each required element of these claims. For example, Plaintiff does not respond to Central Credit's arguments that Plaintiff fails to allege any facts showing that Central Credit failed to "follow reasonable procedures" when investigating (15 U.S.C. § 1681e(b)), failed to "conduct a reasonable reinvestigation" (15 U.S.C. § 1681i(a)(1)), what information Plaintiff supposedly submitted to Central Credit (15 U.S.C. § 1681i(a)(4)) or that a reinvestigation by Central Credit found an item of information disputed by Plaintiff was "inaccurate or incomplete or cannot be verified." 15 U.S.C. § 1681i(a)(5).

While these defects are fatal because they are all required elements of Plaintiff's claims, Credit Central nevertheless briefly responds to Plaintiff's four contentions in turn. Dkt. #25 at 10, 15-16.

**First**, Plaintiff tacitly concedes that the FAC fails to allege that Central Credit is a credit reporting agency. *See* Dkt. #25 at 15:7-10. That Plaintiff is relying on documents outside of the FAC to try and show that Central Credit is a credit reporting agency (*see id.*) proves the point: there is no such allegation in the FAC. Accordingly, dismissal is appropriate. *See* Dkt. #20 at 8-9.

**Second**, Central Credit never claimed that a business cannot be both a furnisher of credit information and a credit reporting agency. However, the FAC unambiguously asserts that Central Credit is a credit furnisher only. *See* FAC ¶ 5. Thus, as pleaded, dismissal is appropriate.



1           **Third**, the FAC fails to adequately allege any false reports about Plaintiff. *See* Dkt. #20  
 2 at 10. To the extent Plaintiff contends that a conclusory allegation that something is false is “not  
 3 a legal conclusion and that’s well-settled” (Dkt. #25 at 10), Plaintiff is incorrect and relies on  
 4 inapposite case law.

5           For example, the statement Plaintiff cherry-picks from *Foresberg v. Fid. Nat. Credit*  
 6 *Servs., Ltd.*, was made in the context of a purported violation of California Civil Code section  
 7 1785.26 and the Fair Debt Collection Practices Act (“FDCPA”) relating to the plaintiff’s claim  
 8 that a statutorily required notice in a debt collection letter “was less specific than that spelled  
 9 out in the statute.” 2004 WL 3510771, at \*4-5 (S.D. Cal. Feb. 26, 2004). The court’s  
 10 determination in that context that “[w]hether the notice given was ‘false, deceptive, or  
 11 misleading’ is a factual question, which may not be determined in a motion to dismiss” is simply  
 12 irrelevant here. *Id.* at \*5. Moreover, the authority relied on by the *Foresberg* court for this  
 13 proposition is a 1997 Fifth Circuit case involving the review of a summary judgment order under  
 14 the FDCPA, and also has nothing to do with Plaintiff’s claims here. *See Taylor v. Perrin, Landry,*  
 15 *deLaunay & Durand*, 103 F.3d 1232 (5th Cir. 1997). And even in that case, the court noted that  
 16 the plaintiff there had alleged detailed *facts* regarding the purported false statement at issue. *See*  
 17 *id.* at 1236 (“Taylor filed a complaint, alleging that USI sent the deceptive form letter indicating  
 18 that Durand and his law firm were assisting USI in collecting the debt, but that in fact Durand  
 19 had not performed the minimal tasks required of an attorney acting as an attorney, such as  
 20 reviewing Taylor’s file, determining the merits of the claim, or reviewing and sending the  
 21 particular letter . . .”). This is not the case here.

22           Similarly, *Theodore v. Purecycle Techs., Inc.*, No. 6:21-CV-809-PGB-GJK, 2022 WL  
 23 20157415 (M.D. Fla. Aug. 4, 2022) involved claims of fraud under Section 10(b) of the  
 24 Securities Exchange Act of 1934 and the Securities and Exchange Commission’s Rule 10b-5.  
 25 There, the plaintiff relied on a research report from a short seller (the “Hindenberg Report”) in  
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1 its complaint to support its securities claims. *See id.* at 1-2. On a motion to dismiss, the  
 2 defendants claimed the report was untrue, but the court determined this was a factual issue not  
 3 amenable to resolution on a motion to dismiss. *See id.* at \*11. This is plainly not the case here.  
 4 The *Theodore* plaintiffs provided detail factual allegations supporting their claims of falsity,  
 5 including the entire Hindenberg Report. Here, Plaintiff alleges no facts supporting his  
 6 conclusory allegations that anything false was reported about him. Thus, dismissal is  
 7 appropriate.

8 Plaintiff's other cited case, *Steamship Trade Ass'n of Baltimore-Int'l Longshoreman's*  
 9 *Ass'n Pension Fund v. Olo Inc.*, No. 22-CV-8228 (JSR), 2023 WL 4744197, at \*4 (S.D.N.Y.  
 10 July 25, 2023), also involved securities claims, and is similarly inapplicable. There, the plaintiffs  
 11 alleged specifically what statements were supposedly inaccurate, and even supported their  
 12 allegations "with corroboration from confidential witnesses." *Id.* at \*4. Here, by contrast,  
 13 Plaintiff does not even identify what debts the FAC is referring to, what casinos held the debts,  
 14 what Central Credit supposedly reported about the debts, how such reports were false or  
 15 inaccurate, and how the supposedly inaccurate reporting was the result of an unreasonable  
 16 procedure of Central Credit. *See* Dkt. #20 at 10. Accordingly, dismissal is required.

17 ***Fourth***, as Plaintiff tacitly admits, the FAC does not allege negligence by claiming  
 18 negligence can nonetheless be "inferred" from the FAC. *See* Dkt. #25 at 16. Yet Plaintiff does  
 19 not explain how this is so other than a stray reference to an SEC report which is not attached to  
 20 or even referenced in the FAC. There are no well-pleaded allegations of negligence.

21 ***Fifth***, Plaintiff provides no authority for his claim that a *pro se* plaintiff does not have  
 22 to allege well-pleaded facts supporting each of his claims. *Pro se* or not, Plaintiff is required to  
 23 follow the rules. *See, e.g., Copeland*, 2019 WL 7811332, at \*1. This is especially true here as  
 24 Plaintiff retained counsel shortly after filing the initial complaint, has already amended the  
 25 complaint once with the assistance of counsel to substitute in the proper defendant, and has since  
 26

1 had ample opportunity over the last several months to seek further leave to amend after Central  
 2 Credit's counsel alerted Plaintiff's counsel to the FAC's many substantive deficiencies. Thus,  
 3 Plaintiff should not be permitted to rely on his *pro se* status in filing the initial complaint as  
 4 grounds to oppose Central Credit's motion to dismiss or to seek further leave to amend.

5 For all these reasons, the Court should dismiss these claims with prejudice.

6 **G. Plaintiff's WFCRA and WCPA Claims Fail**

7 Contrary to Plaintiff's assertions, Central Credit's motion accurately states the law  
 8 regarding WFCRA and WCPA claims. *See* Dkt. #20 at 11-12. Plaintiff tacitly concedes that,  
 9 absent a *per se* violation of the WCPA, the FAC does not state a claim. *See* Dkt. #25 at 18-19.  
 10 Plaintiff also concedes that the FAC does not attempt to plead any state law claims against  
 11 Central Credit as a purported furnisher of information to credit reporting agencies. *See Id.* at 19.  
 12 As set forth above, Plaintiff does not allege sufficient facts to state any of his purported claims.

13 To the extent Plaintiff argues that the FAC nevertheless states a claim for a *per se*  
 14 violation of the WCPA, Plaintiff does not plead sufficient facts for the Court to infer Central  
 15 Credit violated the WFCRA for the same reasons set forth above in relation to Plaintiff's FCRA  
 16 claims. Dkt. #20 at 11. Nor does Plaintiff sufficiently allege facts showing causation and damage  
 17 to business or property. *Id.* at 11. Plaintiff's cited case, *Handlin v. On-Site Manager Inc.*, 187  
 18 Wash. App. 841 (2015), is inapposite because the claims in that case involved violations arising  
 19 from improperly withheld credit information, and thus alleging that the information was  
 20 improperly withheld was itself sufficient to state a claim. *See Handlin* at 850-51 ("The Handlins  
 21 had a right to use and possess information in On-Site's files. On-Site's alleged violations of the  
 22 Fair Credit Reporting Act deprived the Handlins of their right to obtain information that has  
 23 commercial utility for them."). Plaintiff here instead alleges that Central Credit falsely reported  
 24 information about him, but never alleges facts as to what the allegedly false information was or  
 25 how the information was false. Accordingly, dismissal on this ground is appropriate.

## H. The FAC Should Be Dismissed With Prejudice

The FAC should be dismissed with prejudice. “The court considers five factors in assessing the propriety of leave to amend—bad faith, undue delay, prejudice to the opposing party, futility of amendment, and whether the plaintiff has previously amended the complaint.” *United States v. Corinthian Colleges*, 655 F.3d 984, 995 (9th Cir. 2011). Central Credit submits that all five factors are present here and militate against leave to amend. Plaintiff has unduly delayed seeking leave to amend. Plaintiff first raised the prospect of a further amended complaint on March 25, 2025. *See* Dkt. #21-3. The parties met and conferred extensively on the proposed further amendment. *See* Dkt. #21-3, 21-5. Plaintiff could have filed a motion for leave to amend at any time over the past three months without the need for costly and unnecessary motion practice, but Plaintiff chose not to seek leave to amend and to oppose Central Credit’s motion to dismiss instead. Any proposed amendment would be futile for the reasons set forth in this reply, and in Central Credit’s motion to dismiss. Additionally, Plaintiff has already amended the complaint once when Central Credit agreed to be swapped in as a defendant instead of Everi Holdings Inc., which was not a proper party. *See Ecological Rts. Found. v. Pac. Gas & Elec. Co.*, 713 F.3d 502, 520 (9th Cir. 2013) (“Although a district court ‘should freely give leave [to amend] when justice so requires,’ the court’s discretion to deny such leave is ‘particularly broad’ where the plaintiff has previously amended its complaint.”) (internal citations omitted). Accordingly, dismissal with prejudice is appropriate here.

## II. CONCLUSION

For the reasons set forth above, Central Credit respectfully requests that the Court dismiss the FAC in its entirety with prejudice.

I certify that this memorandum contains 3,998 words, in compliance with the Local Civil Rules.

1 Dated: July 1, 2024

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26  
DEFENDANT CENTRAL CREDIT'S REPLY ISO  
MOTION TO DISMISS FIRST AMENDED  
COMPLAINT - 13

Case No. 2:23-cv-01817-RAJ

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